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2 REMARKS
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4 Claims 1, 3, 4, 7-15, 17, 20-28, 30-34, and 36-39 are currently
5 pending in the present application.
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7 Claims 1, 3, 4, 7-15, 17, 20-28, 30-34, and 36-39 have been
8 rejected by the Examiner due to 35 USC Section 101.
9

10 Applicant thanks the Examiner for this thoughtful review of this
11 application and her comments in the 12/15/2009 telephone interview.
12 Consequently, Applicant, in light of the amendments to the pending claims as
13 detailed above, responds to the Examiner's rejections as follows.
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15 The crux of the rejections are "because the claimed invention is
16 directed to non-statutory subject matter", as elaborated upon in In re
17 Bilski, 88 U.S.P.Q.2d 1385 (Fed. Cir. 2008). The Examiner indicated that all
18 the Claims pending in this application "are not tied to a particular machine
19 or apparatus nor do they transform a particular article into a different
20 state or thing, thereby failing the machine-or-transformation test" (Office
21 Action, p. 4).
22

23 In the present application, Applicant has amended all independent
24 claims directed towards a method (Claims 1 and 28) to require specifically
25 that the data examination step is done via a computer. Further Applicant has
26 amended all independent claims directed towards a product (Claims 15 and 34)
27 to require specifically that a computer is used to examine the data.
28

29 The basis for these amendments includes without limitation:
30

- 31 (a) the various references to computer or computers
32 throughout the Specification, e.g., p. 4, lines
33 27-29; and p. 6, lines 9-21;
34 (b) the various references to computer or computers
35 throughout the Drawing; and

1 (c) all references to "computer 12" throughout the
2 Specification and Drawing.

3
4 Applicant respectfully submits that the claims as amended are
5 directed to statutory subject matter as required by 35 USC Section 101.

6
7 Summarizing, Applicant's invention discloses a novel and non-
8 obvious data analysis method and system.

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10 In conclusion, it is respectfully urged that these Remarks
11 adequately respond to the Office Action, and that all of Applicant's pending
12 claims, as amended, are allowable and define patentable subject matter.

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14 The Examiner is respectfully requested to review the present
15 pending claims and to find that they define patentable subject matter. Thus,
16 it is respectfully requested that the present pending Claims be allowed.

In the event that this Response does not place the application in condition for allowance, the Examiner is respectfully requested to telephone the undersigned in order that an attempt can be made to place the application in condition for allowance as expeditiously as possible.

Respectfully submitted,

/mitchell p. novick/

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